

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 607 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHIV CHEM INDUSTRIES

Versus

ALLWIN CHEMICALS & PHARMACEUTICALS

Appearance:

MR SR PATEL for Petitioner

MR PJ YAGNIK for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/12/98

ORAL JUDGEMENT

1. The plaintiff-petitioner challenges by this revision application the order of the trial court dated 28-2-1997 in Summary Suit No.1972/96 under which unconditional leave to defend has been granted to the defendant-respondent.

2. Learned counsel for the plaintiff-petitioner while challenging the said order made manifold

contentions but in view of the fact that this revision application deserves to be allowed only on the ground that the learned trial court has not passed a speaking and reasoned order while granting unconditional leave to defend to the defendant-respondent, it is not necessary for me to advert to all those contentions.

3. Learned counsel for the defendant-respondent has also no objection in case this Court allows this revision application and set aside the impugned order only on the ground that it is a non-speaking or a cryptic order.

4. In the matter of grant of unconditional leave in the summary suit, it is utmost important and necessary for the trial court to see whether the case falls within the four corners of guidelines as laid down by their Lordships of the Hon'ble Supreme Court in catena of decisions. Everyday I am seeing that the City Civil Court at Ahmedabad is passing the orders of grant of leave to defend conditionally or unconditionally to defendant in summary suits by passing cryptic and non-speaking orders. The worse part of these order is that these orders are in fact printed orders wherein only blanks are being filled in. It cannot be said whether the order has been passed by the trial court by applying its mind. The grant of unconditional leave or grant of conditional leave to defend the suit either way is very important for the plaintiff and the defendant respectively in the case and after considering the matter on merits, reasoned order has to be passed. Reasoned order also does not mean that it has to be a full-fledged judgment but the learned trial court has to give out reasons why it has consider it to be a case for grant of conditional or unconditional leave, as the case may be.

5. In the result, this revision application succeeds and the same is allowed. The order of the Chamber Judge, City Civil Court, Ahmedabad dated 28-2-1997 passed in Summary Suit NO.1972/96 is quashed and set aside. The trial court is directed to decide the matter of grant of leave to defend to the defendant-respondent after hearing the learned counsel for the parties in accordance with law and in the light of observations made by this court in this judgment. Rule stands disposed of accordingly with no order as to costs.
